

Submission to House of Commons Electoral Reform Committee

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Why Citizen Juries should decide Canada's Voting Method and Election Rules

Politicians Should Stop Giving Themselves the Final Say about the Voting Method and Election Rules

1. Politicians should not decide the rules under which they are elected, because fair and democratic decision-making requires that those who decide do not have a conflict of interest. For this clear and simple reason, election rules need to be decided independently from politicians, and therefore also independently from Parliament.
2. Politicians and political parties have a strong and obvious conflict of interest regarding the choice of election rules (including those setting out the voting system), specifically an interest in rules that favor themselves and their own party, and disadvantage their political opponents.
3. Parliament should therefore recuse itself from deciding election rules, now and permanently, and play only an advisory role regarding them. The Committee should recommend this.
4. Were there no good democratic alternative to politicians deciding the election rules, then perhaps we would be stuck with that very flawed approach. However, there is an excellent and highly democratic way to decide the rules, namely by using citizen juries, or as they can also be called, minipublics or citizens' assemblies.

A Referendum is an Undemocratic and Inappropriate Way to Decide the Voting System

5. Some say that the voting method should be decided by a referendum vote. This idea needs to be rejected, because far from being the democratic panacea some seem to consider it, a referendum is a very undemocratic and flawed way to decide election rules, including those for the voting system.

6. Rule by the people needs to be well-informed, because only informed views provide a good basis for a decision.

7. A referendum is highly unsuitable for ensuring an informed decision about Canada's electoral system. The public would only learn about the option(s) on the ballot voluntarily in their spare time, and most people are not especially interested in learning about electoral systems. In B.C.'s 2005 [referendum](#) on a proposed new electoral system, shortly before voting day [66%](#) of those surveyed by Ipsos-Reid said they knew "nothing" or "very little" about the proposal on the ballot. In another survey, [over half](#) of those who voted against the proposal said they did so because they did not feel "knowledgeable."

8. A referendum could deny the public an open choice by restricting the options on the ballot to the one option Parliament decides on. This would be undemocratic because it might well be that most Canadians would prefer one of the electoral systems not on the ballot, or would were they to become well informed about it.

9. Theoretically, a referendum ballot could offer voters an open choice of a full range of electoral systems. However, this would be absurd as there is no chance the public would become informed about all of them, or even about several of them.

10. Running an effective national referendum campaign would cost millions for advertising and campaign staff. This could tilt the scales in favor of those who have the most money, which is undemocratic.

11. Because younger citizens are [underrepresented](#) among those who vote, they would be underrepresented in a referendum.

Citizen Juries should have the Final Say about the Voting Method and Election Rules

12. In addition to being decided independently from politicians and political parties, the voting method (and election rules in general) should be decided in a way that is genuinely and thoroughly democratic, with a well informed choice being made from a full range of options, and with neither younger Canadians nor any other portion of the public being underrepresented. The only way to achieve all of these highly desirable objectives is to use a jury drawn from Canadians by random selection.

13. In Classical Athens, widely considered the birthplace of democracy, much of the decision-making was done by juries drawn from the citizens by lottery.

Athenian juries included the City Council ([Boule](#)), jury courts ([dikasteria](#)) and legislative juries ([nomothetai](#)). The jury method of democracy exists today in the form of the trial jury and coroner's jury, and has been applied in the form of James Fishkin's [deliberative polls](#), and the B.C. and Ontario Citizens' Assemblies on Electoral Reform.

14. An electoral reform jury can be large enough to be a statistically accurate sample of Canadians, numbering perhaps 400 to 1,500 citizens, possibly with two to four jurors from each of Canada's 338 ridings. The jurors can be paid to work full-time for as many weeks or months as needed to reach an informed decision. By being a very representative cross-section of the people engaged to take the time to make an informed choice, such a jury would provide the democratic ideal of informed rule by the people.

15. All of the proposed voting methods considered by the electoral reform jury can be submitted in writing by the Committee, political parties and public interest groups, before the jury starts its work. The parties, Committee members, public interest groups and others, can appear before the jury to defend the voting method they support, and explain why they prefer it to the rest.

16. When ready, the jury would decide by majority vote what Canada's voting method will be.

17. The rules for electoral reform juries need to be well designed to ensure an informed decision, and a fair democratic process. They could be worked out by a commission chosen by jury, but with the commission only playing an advisory role, and all final decisions about the rules for electoral reform juries being made by electoral reform juries. Before deciding, such juries could also hear from parliamentarians and others. In this way the rules governing electoral reform juries would themselves be made on the basis of informed rule by the people, independent from politicians and political parties.

18. Some might suggest that the jury's choice of electoral system be subject to approval in a referendum. However, this makes no sense because of the problems with referendums outlined above, including unsuitability for informed decision-making.

19. After nearly 150 years since Confederation, it is time that Canada's politicians graciously stand aside and let the people choose the voting method. An electoral reform jury is the best way to do this, because it would base the choice on

informed rule by the people, or informed rule by a highly representative portion of the people, and would be independent from politicians and political parties.

20. Informed rule by the people (a.k.a. informed consent of the governed), is the best and highest democratic mandate a voting method can have. There is no reason to settle for anything less, and no reason to needlessly delegitimize the voting method by having it chosen by those who have a conflict of interest (such as politicians).

21. The Committee's purpose is to advance Canadian democracy as much as it can, especially by doing everything it can to ensure the voting method is as fully legitimate, appropriate, fair and democratic as it can be. A voting method decided by those with a conflict of interest, and without the informed consent of the people, would needlessly fail to achieve this purpose, and should therefore be rejected

22. Electoral reform juries should become a cornerstone of Canadian democracy. Such a jury could be automatically convened after each election, perhaps six months after, to consider whether any changes to Canada's election rules are called for, and if so, to refer specific questions to one or more other electoral reform juries for a decision. The only way the party(ies) in power should be able to change the election rules is to present their proposal to an electoral reform jury for a decision.

23. It appears unlikely Parliament will reach an all-party consensus on what Canada's voting method should be. It is democratic, fair and best that the decision be removed from conflict of interest and the fray of party politics, by being referred to an electoral reform jury.

24. The Committee's mandate says that it "be directed to study and advise on additional methods for obtaining the views of Canadians". An electoral reform jury should be one of the additional methods, so that the informed views of the Canadian public, as expressed by such a jury, can be discovered and known. Such a jury could be limited to an advisory role, however, for the reasons given, it is better that it make the decision, or, at the least, that its recommendation be followed.

25. For the above reasons, the Committee should recommend that: a.) The voting system be decided by an electoral reform jury so that the decision will be based on the informed consent of the governed, free from the conflict of interest politicians and parties have; b.) that an electoral reform jury be convened this year (or as soon as possible) to decide the voting method in time for the next election; and c.) that

from now on, all changes to Canada's election rules be decided by electoral reform juries, with this becoming a permanent part Canadian democracy (along the lines briefly indicated above). This is what is best, most democratic, most fair and most legitimate for deciding Canada's voting method and election rules.

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